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PATENTREMARKS

Claims 19, 21, and 23 have been amended, and claims 20, 22, and 24 have been canceled. Claims 2-13, 15, 17-19, 21 and 23 will be pending following entry of the amendment.

The following remarks are responsive to the final Office action dated July 23, 2004.

Response to Objections to the Specification

The specification is amended herein in response to the objections raised in paragraph 1 of the final Office action. In particular, the specification is amended to include a description of the flap being free from flush alignment with the pocket in the closed position of the flap. Support for such a disclosure is found in the drawings, and in particular Figure 2, wherein the flap is shown overlapping, or overlaying, the pocket in the closed position of the flap. There is therefore no smooth transition from the edges of the flap to the underlying pocket to which the flap is secured. As such, the flap is free from flush alignment with any portion of the pocket when the flap is closed.

Response to Rejection of Claims Under 35 U.S.C. §103

Before addressing each of the claims individually, applicants note generally that the present invention is directed to a package that contains a plural number of absorbent feminine care articles and is designed to be substantially conformable in size to the number of articles in the package as articles are removed therefrom. See, e.g., page 8, lines 1-5 of the present application. That is, the flap is

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designed to extend over the pocket opening and overlap (e.g., overlay) a portion of the exterior area of the middle portion of the pocket when the flap is closed. Because 1) the adhesive closure is located on the flap itself, 2) the pocket is flexible, and 3) the flap overlaps the middle portion of the pocket instead of being in flush alignment with it in the closed position of the flap, the flap can be releasably secured to substantially any portion of the exterior area of the middle portion of the pocket.

As a result, when the pocket is substantially filled with a number of articles, the pocket is full and the flap releasably secures to the pocket generally toward the top of the pocket. Upon removing one or more articles, the flexible pocket allows the flap to be pulled down over more of the middle portion of the pocket and releasably secure to a location lower on the exterior area of the middle portion than when the pocket was full. Consequently, the size of the closed package is reduced when less articles are contained therein.

None of the references cited by the Office in the final Office action disclose or even suggest providing such a "fasten anywhere" type arrangement that would allow the size of the package to be reduced following removal of articles from the package. Rather, as discussed in greater detail below, the teachings of the references is limited to the flap being secured to the pocket at a single location. Thus, as articles are removed from the package, the overall size of the package remains the same because the flap must secure to the same location each time it is closed. Thus, there is no teaching in any of the references that provide one skilled in the art with the motivation to construct the flap and pocket so that the

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flap can fasten anywhere on the pocket to thereby change the size of the pocket in accordance with the number of articles therein.

Claim 19

Claim 19 as amended herein is directed to a package comprising:

a plural number of individually wrapped absorbent feminine care articles; and

reclosable packaging comprising:

a middle portion and a back portion together at least in part forming a flexible pocket having a hollow interior receiving said plural number of absorbent feminine care articles, the hollow interior of the pocket having a volume which is substantially filled by the plural number of individually wrapped feminine care articles so that the pocket conforms to the articles, said pocket being of unitary construction;

an opening extending into the hollow interior of the pocket, said opening being sized and shaped for permitting at least one of said plural number of individually wrapped feminine care articles to be withdrawn from said hollow interior of the pocket;

a flap attached to the pocket and adapted for covering the opening to retain said plural number of individually wrapped feminine care articles in the hollow interior of the pocket, said flap being selectably moveable between an open position in which the opening is generally unobstructed by said flap to permit said article to be withdrawn through the opening and a closed position in which the flap covers the opening and at

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least a portion of an exterior area of the middle portion of the pocket to retain said plural number of articles in the pocket and to prevent said plural number of articles from passing through the opening; and

a reclosable adhesive closure comprising an adhesive material positioned on said flap for releasably securing the flap in its closed position on said exterior area of the middle portion of the pocket, the adhesive closure being spaced from a distal edge of the flap to permit a portion of the flap to be grasped and separated from the pocket without releasing the closure, said flap being releasably securable by said adhesive closure substantially anywhere on said exterior area of said middle portion of the pocket.

Amended claim 19 is submitted to be nonobvious and patentable over the references of record, and in particular U.S. Patent No. 3,557,853 (Jones) in combination with U.S. Patent No. 6,015,045 (Joseph et al.) and Canadian publication No. 2,109,782 (Larose et al.), in that whether considered alone or in combination the references fail to show or suggest a package having all of the features recited in claim 19 including a flap and a flexible pocket arranged and configured such that an adhesive closure is provided on the flap and the flap is releasably securable anywhere on the exterior area of the middle portion of the package.

Jones, the primary reference relied upon in the Office action, discloses a cloth container (10), such as constructed of cloth or silt (see column 2, lines 60-61), for holding sanitary napkins (21) and having a closure flap (22) to permit access to the interior of the container. Hook and loop type fastener strips (24, 25) are secured to the closure flap (22) and the front panel (12) of the container (10), respectively.

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The hook and loop type fasteners are used to hold the flap in the closed position by substantially aligning and mating the hook strip (24) with the loop strip (25).

As recognized in the Office action, Jones fails to disclose or otherwise teach a package in which an adhesive closure is used to releasably secure the flap to the front panel. More particularly, with respect to amended claim 19, Jones fails to show or suggest an adhesive closure on the flap. But even more notable is that the hook and loop fastener arrangement disclosed by Jones requires that the flap be secured to the front panel in the same location (e.g., where the hook fastener engages the loop fastener) each and every time the flap is closed. Otherwise, the hook fastener would not engage the loop fastener. Thus, Jones clearly fails to show or even suggest the flap being releasably securable anywhere on the exterior area of the middle portion of the package as recited in amended claim 19.

Joseph et al. disclose a hygienic package (10) with a reclosable flap (32) formed by cutting out a portion of the package to define an opening (40) for accessing the contents of the package. In this manner, when the flap is closed, it is aligned flush (e.g., provides a smooth transition) with the rest of the package while providing a closure for the opening. As shown in Fig. 1 of Joseph et al., a retaining band (44) extends above the opening (40) and has adhesive (50) applied thereto. In another, but non-preferred configuration, Joseph et al. disclose that the adhesive may be applied to the reclosable flap (32). Joseph et al. also disclose the use of hook and loop fasteners or high static vinyl materials having attractive material as alternatives to adhesive. In use, when the flap (32) is moved to a closed position, it overlays the

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retaining band (44) in flush alignment with the dispensing package and is secured in the closed position by the adhesive (50).

Like Jones, Joseph et al. teach that the flap must be secured to the pocket at the same location (e.g., at retaining band 44) each and every time that the flap is closed. Otherwise, the flap would not be in flush alignment with the rest of package in its closed position as taught by Joseph et al. Thus, Joseph et al. clearly fail to show or suggest the flap being releasably securable anywhere on the exterior area of the middle portion of the package as recited in amended claim 19.

That Joseph et al. disclose providing adhesive on the flap does not render it obvious to replace the hook and loop fasteners of Jones with adhesive. If adhesive and hook/loop fasteners are equivalents, as the Office action opines, what is the motivation for replacing the hook and loop fasteners with the adhesive disclosed in Joseph et al? Obviousness can only be established by modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references or in the knowledge generally available to one of ordinary skill in the art. MPEP § 2143.01 citing In re Kotzab, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). The mere fact that a prior art reference may be modified to obtain the claimed invention does not make the claimed invention obvious if there is no suggestion or motivation in the reference to make the modification. In re Mills, 916 F.2d 680, 682, 16 U.S.P.Q.2d 1430, 1432 (Fed. Cir. 1990).

Such motivation is clearly absent in this case. Even if adhesive could be used on the package disclosed by Jones

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instead of the hook and loop fasteners, it is insufficient to render such a modification obvious absent some motivation to make such a modification. While Joseph et al. teach using adhesive for securing the flap in its closed position, Joseph et al. teaches providing a retaining band to which the flap is secured so that the flap is in flush alignment with the rest of the package when closed. Thus, even with the adhesive, the teachings of Joseph et al. are limited to the use of adhesive to fasten the flap in the same location every time, not to a different location anywhere on the pocket as recited in amended claim 19. Joseph et al. therefore lacks any teaching that would motivate one skilled in the art to replace the hook and loop fasteners on the package of Jones with an adhesive closure on the flap thereof.

Moreover, the cloth bag disclosed by Jones is constructed of cotton or silk, neither of which provides a good surface for using adhesive material to adhere the flap in its closed position. Rather, cloth materials result in cloth fibers or lint adhering to the adhesive material and reducing its effectiveness. For these additional reasons, one skilled in the art would not be motivated to replace the hook and loop fasteners of Jones with adhesive.

Larose et al. also fail to provide such motivation. The article disclosed in Larose et al. comprises a pouch (30) and a pair of flaps (20, 40) extending outward from the top and bottom of the pouch. To close the pouch (30), the flaps are both folded over the pouch, with one flap overlaying the other, and the flaps are secured together using a hook and loop fastening system. As shown in Figs. 3 and 4, a first strip (60) of one of the fastener components, either the hook or the loop, is located on an interior surface of the flap (20) and a

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second strip (62) of the other component is located on an exterior surface of the flap (40). In a closed position, the first strip (60) is aligned and mated with the second strip (62) (Fig. 2).

Larose et al. clearly fail to teach or suggest a flap having an adhesive material positioned thereon and releasably securable anywhere on the exterior area of the middle portion of the package as recited in amended claim 19. Rather, as in Jones, the hook and loop fasteners disclosed by Larose et al. render the flap securable in only one location, e.g., the same location every time, to engage the hook and loop fasteners.

Since each of the references fails to disclose a package including a flap having adhesive material thereon and releasably securable anywhere on an exterior area of a middle portion of the package, a combination of the references would similarly fail to show or suggest such a feature. Moreover, as discussed above, there is no teaching in any of the references that would motivate one skilled in the art to modify Jones to provide such a feature.

For these reasons, amended claim 19 is submitted to be nonobvious and patentable over Jones, Joseph et al., Larose et al., and the other references of record.

Claims 2-13, 15, and 17-18 depend directly or indirectly from amended claim 19 and are submitted to be patentable over the references of record for the same reasons as claim 19.

Claim 21

Amended claim 21 is directed to a package comprising:
a plural number of individually wrapped absorbent feminine

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care articles; and

reclosable packaging comprising:

a middle portion and a back portion together at least in part forming a flexible pocket having a hollow interior receiving said plural number of absorbent feminine care articles, the hollow interior of the pocket having a volume which is substantially filled by the plural number of individually wrapped feminine care articles so that the pocket conforms to the articles;

an opening extending into the hollow interior of the pocket, said opening being sized and shaped for permitting at least one of said plural number of individually wrapped feminine care articles to be withdrawn from said hollow interior of the pocket;

a flap attached to the pocket and adapted for covering the opening to retain said plural number of individually wrapped feminine care articles in the hollow interior of the pocket, said flap being selectably moveable between an open position in which the opening is generally unobstructed by said flap to permit said article to be withdrawn through the opening and a closed position in which the flap covers the opening and at least a portion of an exterior area of the middle portion of the pocket to retain said plural number of articles in the pocket and to prevent said plural number of articles from passing through the opening, the flap being everywhere free from flush alignment with the pocket in the closed position of said flap; and

a reclosable adhesive closure comprising an adhesive material positioned on said flap for releasably securing the flap in its closed position on said exterior area of the middle portion of the pocket, the adhesive closure being spaced from a

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distal edge of the flap to permit a portion of the flap to be grasped and separated from the pocket without releasing the closure, said flap being releasably securable by said adhesive closure substantially anywhere on said exterior area of said middle portion of the pocket.

Amended claim 21 is submitted to be nonobvious and patentable over the references of record, and in particular Jones in view of Joseph et al. and Larose et al., for substantially the same reasons as claim 19. That is, whether considered alone or in combination the references fail to show or suggest a package having a flap and a flexible pocket arranged and configured such that an adhesive closure is provided on the flap and the flap is releasably securable anywhere on the exterior area of the middle portion of the package.

Claim 23

Amended claim 23 is directed to a package comprising:
a plural number of individually wrapped absorbent feminine care articles; and

reclosable packaging comprising:

a flexible pocket comprising at least in part a first wall and having a hollow interior receiving said plural number of absorbent feminine care articles, the hollow interior of the pocket having a volume which is substantially filled by the plural number of individually wrapped feminine care articles so that the pocket conforms to the articles;

an opening extending into the hollow interior of the pocket, said opening being sized and shaped for permitting at

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least one of said plural number of individually wrapped feminine care articles to be withdrawn from said hollow interior of the pocket;

a flap attached to the pocket and adapted for covering the opening to retain said plural number of individually wrapped feminine care articles in the hollow interior of the pocket, said flap being selectably moveable between an open position in which the opening is generally unobstructed by said flap to permit said article to be withdrawn through the opening and a closed position in which the flap covers the opening and a first portion of the first wall of the pocket to retain said plural number of articles in the pocket and to prevent said plural number of articles from passing through the opening, a second portion of the first wall being uncovered by the flap in the closed position of the flap, the flap being free from flush alignment with said uncovered second portion of the first wall in the closed position of said flap; and

a reclosable adhesive closure comprising an adhesive material positioned on said flap for releasably securing the flap in its closed position on said exterior area of the pocket, the adhesive closure being spaced from a distal edge of the flap to permit a portion of the flap to be grasped and separated from the pocket without releasing the closure.

By positioning adhesive material on the flap and arranging the flap and pocket such that the flap is free from flush alignment with the first wall in the closed position of the flap, a fasten anywhere type arrangement is achieved in which the flap may be secured by the adhesive substantially anywhere on the first wall.

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Amended claim 23 is submitted to be patentable over the references of record, and in particular, Jones, Joseph et al., and Larose et al., in that whether considered alone or in combination the references fail to show or suggest a package having all of the features recited in claim 23 including a reclosable adhesive closure comprising an adhesive material positioned on the flap for releasably securing the flap in its closed position on the exterior area of the pocket.

Jones, as discussed previously, discloses a cotton or silk cloth container (10) for holding sanitary napkins (21) and having a closure flap (22) to permit access to the interior of the container. Hook and loop type fastener strips (24, 25) are provided on the closure flap (22) and the front panel (12) of the container (10), respectively, for selectively securing the flap to the front panel. As recognized in the Office action, Jones fails to disclose or otherwise teach a package in which an adhesive closure is used to releasably secure the flap to the front panel. As such, Jones therefore fails to show or suggest an adhesive closure on the flap as recited in amended claim 23.

Joseph et al. disclose a hygienic package (10) with a reclosable flap (32) formed by cutting out a portion of the package to define an opening (40) for accessing the contents of the package. In use, when the flap (32) is moved to a closed position, it overlays a retaining band (44) in flush alignment with the dispensing package and is secured in the closed position by an adhesive (50). Joseph et al. therefore fail to disclose or suggest using adhesive to releasably secure the flap in its closed position free from flush alignment with the uncovered portion of the wall to which the flap is secured. Rather, Joseph et al. clearly teach flush alignment.

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The article disclosed in Larose et al. comprises a pouch (30) and a pair of flaps (20, 40) extending outward from the top and bottom of the pouch. To close the pouch (30), the flaps are both folded over the pouch, with one flap overlaying the other, and the flaps are secured together using a hook and loop fastening system. As shown in Figs. 3 and 4, a first strip (60) of one of the fastener components, either the hook or the loop, is located on an interior surface of the flap (20) and a second strip (62) of the other component is located on an exterior surface of the flap (40). In a closed position, the first strip (60) is aligned and mated with the second strip (62) (Fig. 2). Larose et al. thus clearly fail to teach or suggest a flap having an adhesive material positioned thereon.

That Joseph et al. disclose providing adhesive on the flap does not render it obvious to replace the hook and loop fasteners of Jones with an adhesive material on the flap. As noted previously in connection with claim 19, obviousness can only be established by modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references or in the knowledge generally available to one of ordinary skill in the art. MPEP § 2143.01 citing In re Kotzab, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). The mere fact that a prior art reference may be modified to obtain the claimed invention does not make the claimed invention obvious if there is no suggestion or motivation in the reference to make the modification. In re Mills, 916 F.2d 680, 682, 16 U.S.P.Q.2d 1430, 1432 (Fed. Cir. 1990).

Such motivation is clearly absent in this case. Even if adhesive could be used on the package disclosed by Jones instead of the hook and loop fasteners, it is insufficient to

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render such a modification obvious absent some motivation to make such a modification. While Joseph et al. teach using adhesive for securing the flap in its closed position, Joseph et al. teaches providing a retaining band to which the flap is secured so that the flap is in flush alignment with the rest of the package when closed. Thus, even with the adhesive, the teachings of Joseph et al. are limited to the use of adhesive to fasten the flap in the same location every time, and in particular one in which the flap is in flush alignment with the rest of the wall to which it is secured. Joseph et al. therefore lacks any teaching that would motivate one skilled in the art to replace the hook and loop fasteners on the package of Jones with an adhesive closure on the flap thereof.

Moreover, the cloth bag disclosed by Jones is constructed of cotton or silk, neither of which provides a good surface for using adhesive material to adhere the flap in its closed position. Rather, cloth materials result in cloth fibers or lint adhering to the adhesive material and reducing its effectiveness. For these additional reasons, one skilled in the art would not be motivated to replace the hook and loop fasteners of Jones with adhesive. To do so would be counterproductive, i.e., it would have a reduced effectiveness as compared to the hook and loop fasteners used by Jones on the cotton or silk cloth bag.

For these reasons claim 23 as amended herein is submitted to be nonobvious an patentable over the references of record.

Claim 31

New claim 31 is directed to a package comprising:
a plural number of individually wrapped absorbent feminine

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care articles; and

reclosable packaging comprising:

a flexible pocket having a hollow interior receiving said plural number of absorbent feminine care articles, the hollow interior of the pocket having a volume which is substantially filled by the plural number of individually wrapped feminine care articles so that the pocket conforms to the articles, said pocket being of unitary construction;

an opening extending into the hollow interior of the pocket, said opening being sized and shaped for permitting at least one of said plural number of individually wrapped feminine care articles to be withdrawn from said hollow interior of the pocket;

a flap attached to the pocket and adapted for covering the opening to retain said plural number of individually wrapped feminine care articles in the hollow interior of the pocket, said flap being selectably moveable between an open position in which the opening is generally unobstructed by said flap to permit said article to be withdrawn through the opening and a closed position in which the flap covers the opening and an exterior area of the pocket to retain said plural number of articles in the pocket and to prevent said plural number of articles from passing through the opening; and

a reclosable adhesive closure comprising an adhesive material positioned on said flap for releasably securing the flap in its closed position on said exterior area of the pocket, the adhesive closure being spaced from a distal edge of the flap to permit a portion of the flap to be grasped and separated from the pocket without releasing the closure.

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New claim 31 is submitted to be patentable over the references of record, and in particular, Jones, Joseph et al., and Larose et al., for reasons similar to those discussed above in connection with claims 23. That is, whether considered alone or in combination the references fail to show or suggest a reclosable adhesive closure comprising an adhesive material positioned on the flap for releasably securing the flap in its closed position on the exterior area of the pocket.

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CONCLUSION

In view of the foregoing, favorable consideration of claims 2-13, 15, 17-19, 21 and 23 as now presented is respectively requested.

Respectfully submitted,



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